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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/650,657

08/28/2003

Andrew Rodney Ferlitsch

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7590

07/12/2006

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EXAMINER

TIMBLIN, ROBERT M

ART UNIT

PAPER NUMBER

2167

DATE MAILED: 07/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/650,657	Applicant(s) FERLITSCH, ANDREW RODNEY	
	Examiner Robert M. Timblin	Art Unit 2167	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 5/5/2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

This action is responsive to application 10/650,657, filed 8/28/2003 and applicant's remarks filed 5/5/2006.

Claims 1-47 have been examined and are pending.

Response to Amendment

Objections to the specification and claim 41 have been reconsidered and withdrawn in view of applicant's corrections.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1 and 25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, each policy is cross-referenced to methods for communicating a query to a device is not clearly defined by the specification.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-47 are rejected under 35 U.S.C. 102(e) as being unpatentable over **Aggarwal** (U.S. Patent 6,985,944 B2) in view of **Mandal et al.** ('Mandal' hereinafter) (US Patent 6,170,009 B1).

With respect to claim 1 and similar claim 25, **Aggarwal** discloses in a system of devices, a policy-driven method for querying, the method comprising:

'accepting a query, from a client, directed to a device' as querying the state of a device (col. 1, line 64-66) **'sending the query to an agent representing the device, using a method responsive to the selected query policy'** as obtaining information from the agent (col. 8, line 50 to col. 9, line 14). Information from the agent about a managed device object is obtained (col. 8 line 61-67 and figure 10).

Aggarwal does not specifically disclose selecting a query policy and establishing a plurality of device communication query policies, where each query policy is cross-referenced to methods for communicating a query to a device.

Mandal, however, discloses **'selecting a query policy'** as the user inputs commands into the GUI to specify a high level policy (col. 3, lines 51-66).

'establishing a plurality of device communication query policies, where each query policy is cross-referenced to methods for communicating a query to a device' as creating a policy for controlling and communicating with devices (col. 5 line 45-col. 6 line 18, col. 4 line 30-44, and figures 2 , 4, and 8).

It would have been obvious to one of ordinary skill in the data processing art at the time of the present invention to combine the teachings of the cited references because selecting a query policy of **Mandal**, would have provided Aggarwal's system with a mechanism to specify a high-level policy for monitoring and control of devices connected to a network (col. 1, lines 53-67).

With respect to claims 2 and 26, **Aggarwal** discloses **'receiving a query result from the agent'** (col. 8, line 50 to col. 9, line 14).

'sending the query result to the client using a method responsive to the selected query policy' as test results (col. 4, lines 34-49).

With respect to claims 3 and 28, **Aggarwal**, discloses **'merging a plurality of query results in response to the selected query policy'** and **'sending the merged query result to the client'** as combining responses from queries (col. 4 line 65- col. 5, line 9, and figures 2, 11A – 11B).

With respect to claims 4 and 29, **Aggarwal**, discloses a **'multi-mode query policy'** (col. 7, lines 25-35).

'sending a query to a plurality of agents' as getting information from the agent (col. 8 lines 61-67).

'receiving a plurality of query results from the corresponding plurality of agents' (col. 8 lines 61-67).

'merging the plurality of query results from the plurality of agents' (col. 8 line 61 – col. 9, line 6).

With respect to claims 5 and 6, 30 and 31, **Aggarwal** discloses **'using a selection criteria from the group including pre-configured, manual, and automatic selection criteria'** and **'static, heuristic and adaptive policies'** as ICMP network monitors that may be used (col. 7, line 13 – col. 8, line 48 and col. 24, lines 24-50).

With respect to claims 7 and 32, **Aggarwal** discloses **'selecting a global query policy that is independent of the information requested in the query'** (col. 14, lines 52-60).

With respect to claims 8 and 33, these claims have been rejected for the same reasons as set forth in claim 4 above.

With respect to claims 9 and 34, **Aggarwal** discloses **'selecting an element-type query policy'** as querying based on device type (col. 7, line 35) **identifying each type of**

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agent associated with a directed query' and **'for each agent, using the method corresponding to the identified agent type** (col. 8, line 61 – col. 9).

With respect to claim 10, **Aggarwal** discloses **'a policy from the group including response time and reliability policies'** as availability and response time (col. 8, lines 5-48 and figures 11a-12).

With respect to claims 11 and 35, these claims are rejected for the same reason as claim 10 as set forth above. Further, **Aggarwal** discloses **'ranking the probable time associated with each agent query result'** as a trend report and predicting the number of days to hit specified thresholds (col. 20, lines 32-36 and fig. 15) **'sending the queries in a hierarchical order responsive to the probable result times'** (col. 21 lines 52 – 57).

With respect to claims 12 and 36, these claims are rejected for the same reasons as set forth in claim 10 above.

With respect to claims 13 and 37, these claims are rejected for the same reasons as set forth in claim 3 above. Furthermore, **Aggarwal** discloses **'selecting and accuracy policy'** as identifying the actual point of failure (col. 21, lines 29-44).

With respect to claims 14 and 38, **Aggarwal** discloses **'a query directed to information concerning device communication port information'** as port monitors (col. 8,

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lines 4-49) **'network information'** as bandwidth utilization (col. 7, lines 43-51) **'communication checks (Ping)'** as checking reachability (col. 7, lines 14-17) **'capability requests'** as disk capacity determination (col. 14, lines 35-51) and **'status updates'** as, for example, BGP status and updates (col. 9,10)

With respect to claims 15 and 39, **Aggarwal** discloses **'using a method selected from the group including spooler application programming interface (API), simple network management protocol (SNMP), printer database, proprietary protocol, Windows 2K directory service, service location protocol (SLP), print job language (PJP), USTATUS, BMLinkS queries, queries concerning an embedded device web page using hypertext transport protocol (HTTP), and other industry standard methods** (col. 7, line 24-col. 8 lines 48).

With respect to claims 16 and 40, **Aggarwal** discloses **'using a process selected from the group including filtering query results, grouping a plurality of results into a single result, and weighing the plurality of results'** (col. 23, lines 46-55).

With respect to claims 17 and 41, **Aggarwal** discloses **'caching device information; and, wherein receiving a query result from the agent includes receiving cached device information as the query result'** as Data Gathering and Storage and Data Storage sections 4.3.2 and 4.3.2.1 respectively (columns 14-16).

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With respect to claims 18 and 42, **Aggarwal** discloses **'accepting a query from a client selected from the group including local, remote, network-connected clients'** (col. 21, lines 11-22).

With respect to claims 19 and 43, **Aggarwal** discloses **'an agent having a connectivity with the device selected from the group including local, remote, and network connectivity'** (col. 17, lines 61-67).

With respect to claims 20 and 44, **Aggarwal** discloses **'a query directed to an imaging device selected from the group including a printer, fax, scanner, multifunctional peripheral (MFP), and copier devices'** as printer support (col. 7, lines 66-67).

With respect to claims 21 and 45, **Aggarwal** discloses **'sending the query to an agent selected from the group including the device that is the subject of the query and a microprocessor-driver computer including a service in communication with the device'** (col. 20, lines 43-63).

With respect to claims 22-24 and 46-47, these claims are rejected for the same reasons as claims 1-21 as set forth above. Furthermore, **Aggarwal** discloses **'device permanent information'** (columns 9-12).

With respect to claim 25, since this claim contains the same subject matter as that of claim 1, but is a system rather than a method it is rejected for the same reasons as claim 1 as set forth above. Furthermore, **Aggarwal** discloses **'a client having an interface to supply a query directed to a device a manager having an interface connected to receive the query from the client and an interface to send queries'** as a data gathering operation may be manually entered via an API (col. 5, line 60 – col. 6 line 5).

With respect to claim 27, **Aggarwal** discloses **'an interface for relaying queries'** (col. 4, lines 34-49)

Response to Arguments

Applicant's arguments filed 5/5/2006 have been fully considered but they are not persuasive. The Examiner respectfully traverses the arguments made by the applicant.

With respect to applicant's argument that there is no teaching in the Mandal reference that suggests a modification to Aggarwal (page 17 In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves

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or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Mandal into Aggarwal's system because both pertain to monitoring devices in a network environment (see abstract of Mandal and Aggarwal and figure 2 of Mandal as well as figure 1 of Aggarwal). More specifically, if one skilled in the art were to use the device-specific policies defined by Mandal with the device querying and information retrieval/collection of Aggarwal to obtain control over devices coupled to a computer network Mandal (col. 1 line 47-49).

With respect to the argument that neither reference describes a method (or manager) that selects a device communications query policy which is cross-referenced to methods for communicating the query, and that sends the query using a method responsive to the selected query policy (page 18), the examiner submits that this element of the invention is taught by the references (see above in rejection of claims 1 and 25).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Contact Information

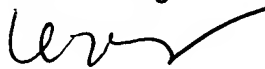
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert M. Timblin whose telephone number is 571-272-5627. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John R. Cottingham can be reached on 571-272-7079. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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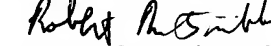
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Leslie Wong



Primary Examiner

Robert M. Timblin



Patent Examiner AU 2167

RMT

6/27/06